

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEVIN D. LIPSKA,

Plaintiff,

v.

CORRECTIONAL OFFICER NILES *et al.*,

Defendants.

Case No. C07-5675RJB/JKA

ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT
OF COUNSEL

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Before the court is plaintiff's motion for appointment of counsel (Dkt. # 10).

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

1 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. This case does not
2 involve exceptional circumstances which warrant appointment of counsel. Accordingly, Plaintiff's Motion
3 to Appoint Counsel, (Dkt. # 10), is **DENIED**.

4 The Clerk is directed to send a copy of this Order to plaintiff.

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6 DATED this 21 day of February, 2008.

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8 /s/ J. Kelley Arnold
9 J. Kelley Arnold
United States Magistrate Judge
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